

### REMARKS

Claims 1 and 5-11 have been amended. Claim 4 has been canceled and its subject matter incorporated into the remaining claims. Claims 12 and 13 have been canceled. Claims 1-3 and 5-11 are currently pending in this application. Applicants reserve the right to pursue the original and other claims in this and other applications.

Applicants hereby affirm the election of Group I, claims 1-11 in response to the Restriction Requirement as stated in a telephone conversation with the Examiner on January 25, 2006. The election was made without traverse. Non-elected claims have been canceled.

Applicants note that the reference which the Examiner indicated could not be found and thus was not considered should have been listed as Schmieding et al., U.S. Patent No. 5,350,383, issued on September 27, 1994. A new form PTO/SB/08 is enclosed for the Examiner's convenience.

Claims 1, 4, 5 and 9 are provisionally rejected on the ground of obviousness-type double patenting as being unpatentable over claims 9, 15 and 21 of co-pending Application Serial No. 10/792,780. Filed concurrently herewith is a Terminal Disclaimer with respect to U.S. Application Serial No. 10/792,780. The pending rejection is obviated by the Terminal Disclaimer.

Claims 7, 8 and 10 are objected to due to informalities. The claims have been amended to add the word "guide" before "pin" in each of the claims, as suggested by the Examiner.

Claims 6 and 11 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claims 6 and 11 have been amended

to correct the insufficient antecedent basis noted by the Examiner. Applicants respectfully submit that the claims are now in compliance with 35 U.S.C. § 112, second paragraph.

Claim 1 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson (U.S. Patent No. 6,149,654) ("Johnson") in view of McGuire et al. (U.S. Patent No. 5,374,270) ("McGuire"). Reconsideration is respectfully requested.

Claim 1 recites a method of forming a socket in bone comprising, "introducing a guide pin through the bone in an antegrade direction to expose a distal end of the guide pin," "inserting the distal end of the guide pin through a cannulation in a cutter," "securing the cutter to the distal end of the guide pin," and "drilling into the bone to create the socket by rotating the cutter and moving the cutter in a retrograde manner using the guide pin," "wherein the cutter comprises a plurality of cutting teeth radiating symmetrically from a cylindrical body and having edges extending radially from the cannulation."

Neither Johnson nor McGuire disclose, teach or suggest a cutter comprising "a plurality of cutting teeth radiating symmetrically from a cylindrical body and having edges extending radially from the cannulation." The cutter disclosed in Johnson is a drill bit having a base portion and a tapered drilling portion. McGuire discloses a cannulated, fluted drill bit. Neither reference discloses the configuration of the cutting teeth as now claimed in the present application. Accordingly, claim 1 as amended is not obvious in view of Johnson and McGuire. Applicants respectfully request that the rejection as to claim 1 be withdrawn.

Claim 2 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of McGuire and in further view of Purnell et al. (U.S. Patent No. 4,781,182) ("Purnell"). Reconsideration is respectfully requested.

Claim 2 is dependent on claim 1. Purnell is relied upon to disclose the drill guide of claim 2. Purnell does not cure the deficiencies of Johnson and McGuire as applied to independent claim 1. Accordingly, claim 2 is patentable over the cited combination. Applicants respectfully request the rejection as to claim 2 be withdrawn.

Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of McGuire and Purnell and further in view of Urban (U.S. Patent No. 5,676,544) ("Urban"). Reconsideration is respectfully requested.

Claim 3 is indirectly dependent on claim 1. Urban is relied upon to disclose the marking hook with a tip and a visible mark proximal to the tip. Urban does not cure the deficiencies of Johnson, McGuire and Purnell as applied to independent claim 1. Accordingly, claim 3 is patentable over the cited combination. Applicants respectfully request the rejection as to claim 3 be withdrawn.

Claims 4, 5 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Morgan et al. (U.S. Patent No. 5,603,716) ("Morgan"). Reconsideration is respectfully requested.

Claim 4 has been canceled. Claims 5 and 9 each recite a method of knee reconstruction comprising the steps of "forming a socket in a femur in a retrograde manner," "forming a socket in a tibia in a retrograde manner," and "securing the ends of a graft respectively in the sockets of the femur and the tibia." Claim 5 further recites "the step of forming the socket in the femur in a retrograde manner includes introducing a guide pin through the femur, attaching a retrograde cutter to the guide

pin, and retrograde cutting into the femur by rotating and withdrawing the guide pin to form the socket in the femur, and wherein the cutter comprises a plurality of cutting teeth radiating symmetrically from a cylindrical body.” Claim 9 further recites “the step of forming the socket in the tibia includes introducing a guide pin through the tibia, attaching a retrograde cutter to the guide pin, and retrograde cutting into the tibia to form the retrograde socket in the tibia, wherein the cutter comprises a plurality of cutting teeth radiating symmetrically from a cylindrical body.”

The combination of Johnson and Morgan does not disclose, teach or suggest a cutter comprising “a plurality of cutting teeth radiating symmetrically from a cylindrical body.” Accordingly, claims 5 and 9 are patentable over the cited combination. Applicants respectfully request the rejection as to claims 5 and 9 be withdrawn.

Claim 6 and 11<sup>1</sup> are rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson and Morgan and further in view of Purnell. Reconsideration is respectfully requested.

Claim 6 is dependent on claim 5. Claim 11 is dependent on claim 9. Purnell is relied upon to disclose the drill guide and marking hook of claims 6 and 11. Purnell does not cure the deficiencies of Johnson and Morgan as applied to independent claims 5 and 9. Accordingly, claims 6 and 11 are patentable over the cited combination. Applicants respectfully request the rejection as to claims 6 and 11 be withdrawn.

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<sup>1</sup> Applicants note that, although the Office Action states that claims 6 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson and Morgan and further in view of Purnell, in view of the language of the rejection, Applicants have responded as if the rejection is to claims 6 and 11.

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson, Morgan, and Purnell and further in view of Urban. Reconsideration is respectfully requested.

Claim 7 is dependent on claim 6. Urban is relied upon to disclose the marking hook having a tip and a visible mark proximal to the tip. Urban does not cure the deficiencies of Johnson, Morgan and Purnell as applied to claim 6 or the deficiencies of Johnson and Morgan as applied to independent claim 5. Accordingly, claim 7 is patentable over the cited art. Applicants respectfully request the rejection as to claim 7 be withdrawn.

Claims 8 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson and Morgan and further in view of McGuire. Reconsideration is respectfully requested.

Claim 8 is dependent on claim 5. Claim 10 is dependent on claim 9. McGuire is relied upon to teach the cannulated guide pin of claims 8 and 10. McGuire does not cure the deficiencies of Johnson and Morgan as applied to independent claims 5 and 9. Accordingly, claims 8 and 10 are patentable over the cited combination. Applicants respectfully request the rejection as to claims 8 and 10 be withdrawn.

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

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Respectfully submitted,

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